IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL No: 252 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 22/11/2004 in WP No: 2593 OF 2000 on the file of the High Court.)

Between:

APSRTC, represented by its Managing Director,
Mushirabad, Hyderabad.

..... APPELLANT

AND

1. The State Transport Appellate Tribunal, Manoranjan Complex, M.J.Road, Nampally, AP, Hyderabad represented by its Presiding Officer.
2. The Regional Transport Authority, Nizamabad District, represented by its Secretary.
3. The Secretary, Regional Transport Authority, Nizmaabad.
4. Sri Md.Lateef D.No.1-3-109, Near Old Bus Stand,
Kamareddy, Nizamabad District.

.....RESPONDENTS

Counsel for the Appellant: Mr. KALLAKURI SRINIVASARAO

Counsel for Respondent Nos.1 to 3: GP FOR TRANSPORT

Counsel for Respondent No.4: Mr. Noushad Ali.

The Court made the following:

ORAL JUDGMENT:

(per the Honourable Sri Devinder Gupta, the Chief Justice)

The appellant is the writ petitioner. The Writ Petition was dismissed by the learned Single Judge and the challenge before the learned Single Judge was the order passed by the State Transport Appellate Tribunal, Hyderabad dismissing the Revision Petition No. 124 of 1996 on 29.9.1999.

The appellant had questioned the proceedings dated 28.05.1996 issued by the Secretary, Regional Transport Authority, Nizamabad, granting one additional permit from Kamareddy to Dharpally to respondent No.4. Though the permit was granted vide proceedings, dated 28.05.1996, appellant's case is that it had no knowledge of the proceedings of grant of permit dated 01.06.1996. Appellant sought for copies of grant proceedings from the Secretary, Regional Transport Authority, Nizamabad, who, instead of furnishing the grant proceedings, vide letter dated 01.06.1996, informed that necessary information may be collected from the Office Notice Board. Again request was made to the Chairman, Regional Transport Authority, Nizamabad, to furnish certified copies which were made available to the Corporation on 07.11.1996. According to the petitioner-appellant revision was filed within the period of limitation, but actually was instituted on 11.12.1996. Though, the case of the appellant was that it was instituted on 6.12.1996, there was no separate application for condonation of delay. These facts were stated in the application seeking suspension of the order of R.T.A. The State Transport Appellate Tribunal dismissed Revision after noticing the facts, but finally observed that because of technical bar of limitation Tribunal was not inclined to enter into other contentious issues. The Writ Petition was filed against the said order.

Learned Single Judge relying upon the decision of the Division Bench of this Court in **A.P.S.R.T.C. v. T.Saidaiah and others** held that since it was necessary for the appellant to have moved an application seeking condonation of delay, in the absence of which, it was not permissible to condone the delay, there are no merits in the writ petition.

We have heard the learned counsel for the parties.

Learned counsel for the 4th respondent submits that in view of the decision of the Division Bench of this court in **T.Saidaiah's case (1 supra),** in the absence of the application for condonation of delay, the revision was rightly dismissed and the learned Single Judge was justified in dismissing the writ petition. It was also pointed out by the learned counsel for the respondent that on 27.5.1996 and 28.5.1996, counsel for the appellant was present and had filed objections before the R.T.A., and, therefore, it was not correct on the part of the appellant that it had no knowledge of the proceedings or that it came to know of the same subsequently.

Learned counsel for the appellant submits that the Revision Petition was filed after obtaining certified copy and only after obtaining the certified copy, the appellant came to know of the exact order and there was no delay in filing revision after obtaining the certified copy. It has, however, not disputed that there was no separate application seeking condonation of delay.

Having duly considered the submissions made at the Bar, we are of the view that before the State Transport Appellate Tribunal, appellant had on affidavit stated some facts, which were to the effect that it had no knowledge of the actual order passed granting the permit. Therefore, it had sought on 1.6.1996 for copies of the grant proceedings from the Secretary, Regional Transport Authority, Nizamabad. Instead of furnishing the grant proceedings, the appellant was informed on 1.6.1996 that necessary information may be collected from the Office Notice Board. Therefore, the appellant had to approach the Chairman, R.T.A. and certified copy was made available on 7.11.1996 and the appellant also stated in the application seeking suspension proceedings that revision was being filed within time. In these circumstances, it was but necessary for the State Transport Appellate Tribunal to have afforded an opportunity to the appellant of filing a formal application seeking delay. May be that appellant had given reasons for not filing the revision in time. But, the facts borne on record, in case, would require a formal application, opportunity should have been afforded for filing an application seeking condonation of delay. The ratio of the decision of Division Bench would be that in the absence of any material on record, it would not be permissible to condone the delay. Whether or not a ground has been made before the State Transport Appellate Tribunal for condoning the delay, for which it has ample authority and power, would only be

considered on certain facts being placed on record. Instead of considering those facts, since the appellant was pleading that the appellant's revision was within time, the appellate tribunal dismissed the revision only on the technical ground. Therefore, we allow the appeal, set aside the impugned order of the learned Single Judge as well as the State Transport Appellate Tribunal, and, permit the appellant herein to file a formal application seeking condonation of delay within a period of 15 days from the date of the receipt of a copy of this order, and, on filing of the same, it will be duly considered by the State Transport Appellate Tribunal in accordance with law after affording an opportunity to Respondent No.4 to oppose the same and, in case, the appellate Tribunal would propose to condone the delay, it would thereafter hear and dispose of the revision of the appellant on merits. No costs.

_____

DEVINDER GUPTA, C.J.

23.2.2005. _____

B.SESHASAYANA REDDY, J.

VR.

To

1.The Presiding Officer, State Transport Appellate Tribunal, Manoranjan Complex, M.J.Road, Nampally, Hyderabad, A.P.
2. The Secretary, Regional Transport Authority, Nizamabad District.
3. The Secretary, Regional Transport Authority, Nizmaabad.
4. Two CCs to Government Pleader for Transport, High Court Buildings, Hyderabad (OUT).

5. Two CD copies.